

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3318 of 2023

Arising Out of PS. Case No.-2 Year-2023 Thana- VIJAYEPUR District- Gopalganj

SHIVDAYAL MISHRA @ JHUNA MISHRA Son of Swaminath Mishra
Resident of Village-Adhula Mishra, P.S.-Vijaipur, District-Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. DILIP KUMAR MANJHI Son of Hiralal Paswan Resident of Village-Adhula Mishra, P.S.-Vijaipur, district-Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pankaj Kumar Dubey
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 28-11-2024 1. Heard learned counsel for the appellant and learned Additional Public Prosecutor for the State.
2. An order, dated 18.05.2023, passed by learned Additional Session Judge III -cum- Special Judge, Gopalganj, in ABP No. 569 of 2023, is under challenge in the present appeal preferred under Section 14-A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellant in connection with Vijaipur Police Station Case No. 02 of 2023 registered for the offence punishable under Sections 341/323/324/307/504/34 of the Indian Penal Code and Sections 3 (i)(r)(s) and 3(2v)a of the



Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, 1989, has been rejected.

3. The prosecution case, as per the First Information Report, is that on 30.12.2022, while the informant was sitting at his door, in the meanwhile the petitioner, alongwith other accused persons, armed with lathi, danda, spade, arrived there and started abusing the informant and his family members by calling their caste name. On protest, they assaulted them with lathi, danda, etc. The co-accused Bhular Mishra gave spade blow on the head of the informant due to which he sustained injury.
4. Learned counsel for the appellant submits that present First Information Report has been lodged due to dispute between the co-villagers due to village politics. The allegation of assault is upon the co-accused Bhular Mishra and injury caused to the informant is simple in nature. He further submits that abuse by the accused persons to the informant was not in full public view.
5. Learned counsel for the State submits that as per the Section 15A(3) of the of the Scheduled Cast and Scheduled Tribe (Prevention of Atrocities) Act, 1989, the information regarding present case has already been given



to the respondent no. 2.

6. Despite service of notice and information, no one appeared on behalf of the respondent no. 2.
7. Having regard to the submissions made on behalf of the parties and taking into consideration the nature of allegation and the fact that specific allegation of assault is upon co-accused Bhular Mishra, injury caused to the informant is simple in nature and caste name was not taken in full public view, I am inclined to grant the appellant privilege of anticipatory bail.
8. This appeal is, accordingly, allowed and the order, dated 18.05.2023, passed by learned Additional Sessions Judge III -cum- Special Judge, Gopalganj, in ABP No. 569 of 2023, is set aside.
9. Let the appellant, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge III -cum- Special Judge, Gopalganj, in connection with Vijayipur Police Station Case No. 02 of 2023, subject to the condition laid down under Section 438 (2)



of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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